CP 1/05 3

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. No. 789 /2004

PETITIONER

Santosh Chand Parakh
Advocate
Aged about 63 years
S/O Shri Malchandji
Parakh
R/O Balod, Tahsil Balod
District Durg
(Chhattisgarh)

P.R. No. 771/04
Present ... Manish Upadhyay
10.03.04

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through the Secretary
Department of Law &
Legislative Affairs
D.K.S. Bhawan, Mantralaya
Raipur (Chhattisgarh)

2. District & Sessions Judge
Durg (Chhattisgarh)

3. District
Magistrate/Collector
Durg (Chhattisgarh)

RECEIVED-COPY
10.3.04
Clerk to A.G. Bilaspur

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS OF MANDAMUS AND FOR OTHER SUITABLE WRITS AND DIRECTIONS:-

1. **PARTICULARS OF THE PETITIONER:**

As stated above in the cause title.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

75

आदेश पत्रक

मामला क्रमांक W.P. 789/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

09-11-2005 :

Shri Jitendra Pali, counsel for the petitioner.

Shri P.S. Koshy, Dy. Advocate General for the State/respondents.

The petitioner was appointed as Additional Govt. Advocate cum Addition Public Prosecutor by order dated 03-12-1998 as Annexure P/1. The petitioner admittedly worked as Additional Govt. Advocate-cum-Additional Public Prosecutor till May 2003. The petitioner has accordingly submitted his bill of professional fee for appearing before Courts on behalf of the State Govt. According to the petitioner the total payable professional fee is Rs. 2,25,000/-, which has not been paid till date, despite several letters and reminders.

The respondent No. 1 in its reply dated 19-04-2005 submitted that the appointment by the State Govt./ respondent No. 1 and the engagement of the petitioner was purely an arrangement made by the respondents No. 3 and as such the petitioner is not entitled to payment of any professional fee. The respondent No. 3 has filed reply on 06-09-2005 adopting the reply filed by the respondent No. 1. It is surprising that the State is taking the above stated stand that the petitioner was not properly appointed. The professional fee was refused, when the petitioner started working from 03-12-1998 and continued till May 2003 and no objection was raised by any officer. Even otherwise the impugned order dated 03-12-1998 has been passed by Additional District Magistrate after obtaining approval of the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 789/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

District Magistrate as such it can not be held that the order was bad. The petitioner has worked as Additional Govt. Advocate-cum-Additional Public Prosecutor on behalf of the respondents on the basis of order dated 03-12-1998. The respondents are estopped from taking the stand that the petitioner is not entitled to payment of any professional fee, in view of the above facts that order was not passed by the State Government when admittedly the order was passed by the District Magistrate respondents No. 3.

After having heard learned counsel for the parties and perusing the records, I am of the view that the petitioner, who had performed the duty of Additional Govt. Advocate-cum-Additional Public Prosecutor for a long period on the basis of an order issued by Additional District Magistrate and approved by the respondent No.3, is entitled to the professional fee.

Accordingly, the respondents are directed to release payment of professional fee within one month from the date of receipt of this order. Since the petitioner has been denied the benefit of his payment which became due long back, the petitioner is also entitled to interest @ 9% from May 2003 till the full and final payment is made.

In view of the foregoing, the petition is allowed. No order as to costs.

Certified copy as per rules.

Sd/-
Satish K. Agnihotri
Judge

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Kapoor
14.11.05
13/3/06